IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

Bail Appl..No. 4984 of 2007()

(C.C.NO.469/2002 OF COURT O JUDICIAL FIRST CLASS MAGISTRATE COURT – PARAPPANANGADI) CRIME NO. 290/02 OF TIRURANGADI POLICE STATION

PETITIONER/ACCUSED NO.3

KANJIRALUNKAL UMMER, AGED 38,
S/O.KUTTAMMU HAJI, KANJIRALUNKAL HOUSE,
PARAKKAVU, MUNNIYOOR SOUTH P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.B.RAMAN PILLAI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

B.A.No.4984 of 2007

= = = = = = = = = = = = = =

Dated this the 14th day of August, 2007

ORDER

The petitioner faces allegations, inter alia, under Sec.498A IPC. He is the brother in law of the defacto complainant. Crime has been registered on the basis a private complaint filed before the learned Magistrate and referred under Sec.156(3) Cr.P.C. to the Police. The petitioner apprehends imminent arrest. Investigation is complete. Final report has already been filed. The petitioner was not available in India. He could not appear before the learned Magistrate earlier. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was on account of reasons beyond his control. The petitioner is willing to surrender before the learned Magistrate, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He further prays that appropriate directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE